रजिस्ट्री सं० डी० 221 REGISTERED NO. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 4] नई दिल्ली, बुधवार, फरवरी 28, 1973/फाल्गुन 9, 1894
No. 4] NEW DELHI, WEDNESDAY, FEBRUARY 28, 1973/PHALGUNA 9, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th February, 1973/Phalguna 9, 1894 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS CO-OPERATIVE SOCIETIES REGULATION, 1973

NO. 3 OF 1973

Promulgated by the President in the Twenty-fourth Year of the Republic of India.

A Regulation to consolidate and amend the law relating to co-operative societies in the Union territory of the Andaman and Nicobar Islands.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Co-operative Societies Regulation, 1973.

(*2*) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(*a*) "bye-laws" means the registered bye-laws for the time being in force and includes registered amendments of such bye-laws;

(*b*) "Chief Commissioner" means the Chief Commissioner of the Union territory of the Andaman and Nicobar Islands;

(*c*) "committee" means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

(*d*) "co-operative society" means a society registered or deemed to be registered under this Regulation;

(*e*) "co-operative society with limited liability" means a co-operative society in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws—

(*i*) to the amount, if any, unpaid on the shares respectively held by them; or

(*ii*) to such amount as they may, respectively, undertake to contribute to the assets of the society;

(*f*) "co-operative society with unlimited liability" means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(*g*) "credit agency" means a co-operative society which has as its principal object the lending of money to other co-operative societies and includes—

(*i*) a banking company as defined in section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*ii*) the State Bank of India constituted under section 3 of the State Bank of India Act, 1955; 23 of 1955.

(*iii*) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(*iv*) the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963; and 10 of 1963.

(*v*) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*h*) "Government" means the Central Government;

(*i*) "member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Regulation, the rules and the bye-laws, and includes a nominal or an associate member and the Government when it subscribes to the share capital of a society;

(*j*) "nominal or associate member" means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the bye-laws;

(*k*) "officer" includes a president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of a committee, treasurer, liquidator, administrator and any other person empowered under the rules or bye-laws to give directions in regard to the business of a co-operative society;

(*l*) "Official Gazette" means the Andaman and Nicobar Gazette;

(*m*) "prescribed" means prescribed by rules made under this Regulation;

(*n*) "producers' society" means a society formed with the object of producing and disposing of goods and commodities as a collective property of its members, and includes a society formed with the object of the collective disposal of the labour of its members;

(*o*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Regulation, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar under sub-section (2) of section 3;

(*p*) "rules" means the rules made under this Regulation;

(*q*) "Union territory" means the Union territory of the Andaman and Nicobar Islands.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES

Registrar.

3. (*1*) The Chief Commissioner may appoint a person to be the Registrar of Co-operative Societies for the Union territory and may appoint other persons to assist him.

(*2*) The Chief Commissioner may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of the Registrar under this Regulation.

(*3*) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2), subject to the general superintendence, direction and control of the Registrar.

Societies which may be registered.

4. (*1*) Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Regulation with or without limited liability:

Provided that, unless the Chief Commissioner by general or special order otherwise directs, the liability of the society of which a co-operative society is a member shall be limited.

(2) Whether the liability of the members of any co-operative society is limited or unlimited by shares, the liability of the Government or of a credit agency which has taken shares in such co-operative society, shall be limited to the share capital subscribed by the Government or such credit agency as the case may be.

(3) The word "limited" or its equivalent in any Indian language shall be suffixed to the name of every society registered under this Regulation with limited liability.

Restrictions on registration.

5. No society, other than a society of which a member is a co-operative society, shall be registered under this Regulation unless it consists of at least ten persons (each of such persons being a member of a different family), above the age of eighteen years and residing in the area of operation of the society.

Explanation.—For the purposes of this section, the expression "member of a family" means wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, son, unmarried daughter, unmarried step-daughter, step-son, grandson, unmarried grand-daughter, unmarried sister, unmarried half-sister, brother, half-brother and wife of brother or half-brother.

Restriction on holding of shares.

6. No member, other than the Government or a co-operative society, shall hold more than such portion of the share capital of a co-operative society, subject to a maximum of one-fifth, as may be prescribed or have or claim any interest in the shares of such society exceeding ten thousand rupees.

Application for registration.

7. (1) For the purposes of registration of a co-operative society under this Regulation, an application shall be made to the Registrar in the prescribed form.

(2) The application shall be signed,—

(a) in the case of a society of which no member is a co-operative society, by at least ten persons qualified in accordance with the requirements of section 5; and

(b) in the case of a society of which a member is a co-operative society, by a duly authorised person on behalf of every such co-operative society and where all the members of the society are not co-operative societies, by ten other members, or when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed bye-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

8. (1) If the Registrar is satisfied—

(a) that the application complies with the provisions of this Regulation and the rules;

(b) that the objects of the proposed society are in accordance with section 4;

(c) that the proposed bye-laws are not contrary to the provisions of this Regulation and the rules; and

(d) that the proposed society has reasonable chances of success,

the Registrar may register the society and its bye-laws.

(2) When the Registrar refuses to register a society, he shall communicate the order of refusal, together with the reasons therefor, to such of the applicants as may be prescribed.

(3) The application for registration shall be disposed of by the Registrar within a period of three months from the date of receipt thereof by him.

(4) Where the Registrar fails to dispose of an application for registration within the period specified in sub-section (3), he shall be deemed to have refused to register the society and nothing in sub-section (2) shall apply to such refusal.

Registration certificate.

9. Where a society is registered under this Regulation, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is duly registered under this Regulation, unless it is proved that the registration of the society has been cancelled.

Amendment of bye-laws of co-operative society.

10. (1) No amendment of any bye-laws of a co-operative society shall be valid until the same has been registered under this Regulation.

(2) Every proposal for such amendment shall be forwarded to the Registrar in the prescribed manner and if the Registrar is satisfied that the proposed amendment—

(i) is not contrary to this Regulation or to the rules;

(ii) does not conflict with co-operative principles; and

(iii) will promote the economic interests of the members of the society,

he may register the amendment:

Provided that no order refusing to register the amendment of bye-laws shall be passed except after giving the co-operative society an opportunity of making its representation.

(3) The Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor, to the society in the prescribed manner.

(5) An amendment of the bye-laws of a registered society shall take effect from the date, if any, specified in the amendment and where no such date is specified, the amendment shall take effect from the date on which it is registered.

(6) (i) Where the Registrar is satisfied that for the purpose of altering the area of operations of a co-operative society or for the purpose of improving the services rendered by it or for any other purpose specified in the rules, an amendment of the bye-laws is necessary, he may after consulting, in the prescribed manner, the credit agency, if any, to which the society is affiliated, by notice in writing, call upon the society to show cause, within such time as may be specified in the notice, why the amendment should not be made.

(*ii*) If within the time specified in the notice referred to in clause (*i*), the co-operative society fails to make the amendment, the Registrar may, after giving the society an opportunity of making its representations, register the amendment and issue to the society a copy of such amendment.

(*iii*) Any amendment of the bye-laws registered under clause (*ii*) shall have the same effect as an amendment of the bye-laws registered under sub-section (*2*) unless the registration is cancelled in pursuance of a decision in appeal.

Change of name.

11. (*1*) A co-operative society may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

(*2*) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

Change of liability.

12. (*1*) Subject to the provisions of this Regulation and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

(*2*) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(*3*) Any member or creditor who does not exercise his option within the period specified in sub-section (*2*) shall be deemed to have assented to the change.

(*4*) An amendment of a bye-law of a co-operative society changing the form or extent of its liability shall not be registered or shall not take effect until either—

(*a*) all the members and creditors have assented, or deemed to have assented, to the change; or

(*b*) all claims of the members and creditors who exercise the option referred to in sub-section (*2*) within the period specified therein have been met in full or otherwise satisfied.

Amalgamation, transfer of assets and liabilities and division of co-operative societies.

13. (*1*) A co-operative society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at the general meeting of the society,—

(*a*) transfer its assets and liabilities in whole or in part to any other co-operative society;

(*b*) divide itself into two or more co-operative societies.

(2) Any two or more co-operative societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect, until either—

(a) all the members and creditors have assented, or are deemed to have assented, to the resolution aforesaid; or

(b) all claims of the members and creditors who exercise the option referred to in sub-section (4) within the period specified therein have been met in full or otherwise satisfied.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

Cancellation of registration certificates of co-operative societies in certain cases.

14. (1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 13, the registration of the first-mentioned co-operative society shall stand cancelled and that co-operative society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 13, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society, and each society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of section 13, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) The amalgamation and splitting of co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting co-operative society or societies or render defective any legal proceedings

by or against the co-operative society or societies, and any legal proceedings that might have been continued or commenced by or against the co-operative society or societies, as the case may be, before the amalgamation or splitting, may be continued or commenced by or against the resulting co-operative society or societies.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Persons who may become members.

15. (*1*) No person shall be admitted as a member of a co-operative society except the following, namely:—

(*a*) an individual competent to contract under section 11 of the Indian Contract Act, 1872; 9 of 1872.

(*b*) any other co-operative society;

(*c*) the Government; and

(*d*) such class or classes of persons or associations of persons as may be notified by the Chief Commissioner in this behalf.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Chief Commissioner may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order, published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such person or persons is or are engaged in or carrying on that profession, business or employment, as the case may be

Nominal or associate members.

16. (*1*) Notwithstanding anything contained in section 15, a co-operative society may admit any person [including any bank referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*v*) of clause (*g*) of section 2] as a nominal or associate member in accordance with its bye-laws.

(*2*) A nominal or associate member shall not be entitled to any share in any form whatsoever, in the assets or profits of the co-operative society.

(*3*) Save as otherwise provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the co-operative society.

Member not to exercise rights till due payment made.

17. No member of a co-operative society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society as may be specified in the bye-laws.

Votes of members.

18. Every member of a co-operative society shall have only one vote in the affairs of the society:

Provided that—

(*a*) in the case of an equality of votes, the chairman shall have a second or casting vote,

(*b*) a nominal or associate member shall not have the right of vote; and

(c) where the Government is a member of the co-operative society, each person nominated by the Chief Commissioner on the committee shall have one vote.

Manner of exercising vote.

19. (1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society which is a member of another co-operative society, may, subject to the rules, appoint one of its members to vote on its behalf in the affairs of that other society.

Restriction on transfer of shares or interest.

20. The transfer of the share or interest of a member in the capital of a co-operative society shall be subject to such conditions as to maximum holding as are specified in section 6.

Transfer of interest on death of member.

21. (1) On the death of a member, a co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or bye-laws:

Provided that—

(i) in the case of a co-operative society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest, of the deceased member ascertained as aforesaid;

(ii) in the case of a co-operative society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and bye-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified; and

(iii) no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A co-operative society shall, subject to the provisions of section 31 and unless, within six months of the death of the member, prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member and estate of deceased member.

22. (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed,—

(a) in the case of a past member, on the date on which he ceased to be a member;

(*b*) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date:

Provided that the liability of the Government or of a credit agency which has taken shares in a co-operative society shall cease on the date on which the Government or the credit agency ceases to be a member.

(*2*) Where a co-operative society is ordered to be wound up under section 57, the liability of a past member who ceased to be a member or of the estate of a deceased member who died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of cessation of membership or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

Final authority in a co-operative society.

23. (*1*) The final authority in a co-operative society shall vest in the general body of members:

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws, such smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society.

(*2*) Notwithstanding anything contained in sub-section (*2*) of section 19, each delegate shall have only one vote in the affairs of the society.

Annual general meeting.

24. A general meeting of a co-operative society shall be held once in a year for the purpose of—

(*a*) approval of the programme of the activities of the society prepared by the committee for the ensuing year;

(*b*) election, if any, of the members of the committee other than nominated members;

(*c*) consideration of the audit report and the annual report;

(*d*) disposal of the net profits;

(*e*) consideration and approval of the annual budget; and

(*f*) consideration of any other matter which may be brought forward in accordance with the bye-laws.

Special general meeting.

25. (*1*) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be provided in the bye-laws.

(*2*) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (*1*), the Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee.

Election and nomination of members of committees.

26. (*1*) The members of the committee of a co-operative society shall be elected in the prescribed manner and no person shall be so elected unless he is a shareholder of the society.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) where the Government has subscribed to the share capital of a co-operative society, the Chief Commissioner or any person authorised by the Chief Commissioner in this behalf shall have the right to nominate on the committee such number of persons not exceeding three or one-third of the total number of members thereof, whichever is less, as the Chief Commissioner or such authorised person may determine;

(*b*) where the Industrial Finance Corporation established under section 3 of the Industrial Finance Corporation Act, 1948 or any credit agency has provided finance to a co-operative society, the said Industrial Finance Corporation, or such credit agency, as the case may be, shall have the right to nominate one person on the committee.

15 of 1948.

(*3*) A person nominated under sub-section (*2*) shall hold office during the pleasure of the Chief Commissioner or the said Industrial Finance Corporation or such credit agency, as the case may be.

Supersession of committee.

27. (*1*) If, in the opinion of the Registrar, the committee of any co-operative society persistently makes default or it is negligent in the performance of the duties imposed on it by this Regulation or the rules or bye-laws, or commits any act which is prejudicial to the interest of the society or its members, the Registrar may, after giving the committee an opportunity to state its objection, if any, by order in writing remove the committee; and

(*a*) order fresh election of the committee, or

(*b*) appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding one year as may be specified in the order which period may, at the discretion of the Registrar, be extended from time to time, so, however, that the aggregate period does not exceed three years.

(*2*) The Registrar may fix such remuneration for the administrator or administrators as he may think fit and such remuneration shall be paid out of the funds of the co-operative society.

(*3*) The administrator shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society.

(*4*) The administrator shall, at the expiry of his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(*5*) Before taking any action under sub-section (*1*) in respect of a co-operative society indebted to a credit agency, the Registrar shall consult the credit agency, to which it is indebted regarding such action.

Securing possession of records, etc.

28. (*1*) If,—

(*a*) in the opinion of the Registrar, the records (including registers and books of account) of a co-operative society are likely to be tampered with or destroyed or the funds or other property of a co-operative society are likely to be misappropriated or misapplied; or

(*b*) the committee of a co-operative society is reconstituted at a general meeting of the society; or

(*c*) the committee of a co-operative society is removed by the Registrar under section 27; or

(*d*) a co-operative society is ordered to be wound up under section 57 and the outgoing members of the committee thereof refuse to hand over charge of the records and property of the society to those having, or entitled to receive, such charge,

the Registrar may apply to the Magistrate within whose jurisdiction the society functions for securing such records and property of the society.

(*2*) On receipt of an application under sub-section (*1*), the Magistrate may, by a warrant, authorise any police officer, not below the rank of a sub-inspector to enter and search any place where such records and property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new committee or administrator of the society or the liquidator, as the case may be.

Acts of co-operative societies not to be invalidated by certain defects.

29. No act of a co-operative society or of any committee or any officer of the society shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the society or of the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his office.

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

Co-operative societies to be bodies corporate.

30. The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

First charge of co-operative society on certain assets.

31. (*1*) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand due to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(*2*) No person shall transfer any property which is subject to a charge under sub-section (*1*) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884, after the grant of the loan by the co-operative society.

19 of 1883.
12 of 1884.

Charge on immovable property of members borrowing loans from certain societies.

32. Notwithstanding anything contained in this Regulation or in any other law for the time being in force,—

(i) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(ii) any person who has borrowed a loan from a society of which he is a member before the commencement of this Regulation, and who owns any land or has any interest in any land as a tenant shall, in a case where such loan subsists immediately before such commencement, make a declaration in the form and to the effect referred to in clause (i);

(iii) a declaration made under clause (i) or clause (ii) may be varied at any time by a member with the consent of the society in favour of which a charge referred to in clause (i) is created;

(iv) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (i) or clause (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that for the purpose of paying in full the whole amount borrowed by the member together with interest thereon to the society, the member may, with the previous permission in writing of the society and subject to such conditions as the society may impose, alienate the whole or any part of such land or interest therein:

Provided further that the standing crops on any such land may be alienated with the previous permission of the society;

(v) any alienation made in contravention of the provisions of clause (iv) shall be void;

(vi) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (i) or clause (ii) for and to the extent of the dues owing by him on account of the loan and advances;

(*vii*) the record of rights shall also include the particulars of every charge on land or interest created under a declaration under clause (*i*) or clause (*ii*).

Explanation.—For the purposes of this section, "society" means any co-operative society or class of co-operative societies specified in this behalf by the Chief Commissioner by a general or special order.

Charge and set-off in respect of share or contribution or interest of the members.

33. A co-operative society shall have a charge on the share or contribution or interest in the capital and on the deposits of a member or past member or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past member or the estate of a deceased member in or towards payment of any such debt.

Share or contribution or interest not liable to attachment.

34. (*1*) Subject to the provisions of section 33, the share or contribution or interest of a member or past member or deceased member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability incurred by such member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to or have any claim on such share or contribution or interest.

(*2*) The reserve fund, or the bad debt reserves, or the provident fund of the employees, of a co-operative society invested by such society in accordance with the provisions of this Regulation and the rules shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

Register of members.

35. Any register or list of members or shares kept by any co-operative society shall be *prima facie* evidence of any of the following particulars entered therein, namely:—

(*a*) the date on which any person entered in such register or list became a member;

(*b*) the date on which any such person ceased to be a member.

Admissibility of copy of entry as evidence.

36. (*1*) A copy of any entry in a book of a co-operative society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(*2*) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under an order of a court or an arbitrator made for special cause.

16 of 1908.

Exemption from compulsory registration of instruments.

37. Nothing in clauses (*b*) and (*c*) of sub-section (*1*) of section 17 of the Registration Act, 1908 shall apply to—

(*1*) any instrument relating to shares in a co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(*2*) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the society has mortgaged, conveyed, or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(*3*) an endorsement upon or transfer of any debenture issued by any such society.

Exemption from certain taxes, fees and duties.

38. If the Chief Commissioner is of opinion that it is necessary in the public interest so to do, he may, by notification in the Official Gazette,—

(*a*) remit in respect of any class of co-operative societies any fee payable under any law for the time being in force relating to the registration of documents or court-fees;

(*b*) exempt any class of co-operative societies from payment of—

(*i*) land revenue;

(*ii*) taxes on agricultural income;

(*iii*) taxes on sale or purchase of goods; or

(*iv*) taxes on professions, trades, callings and employments.

Deduction from salary to meet co-operative society's claim in certain cases.

39. (*1*) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in such form as may be prescribed in favour of that society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement but not exceeding one-third of the salary or wages and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(*2*) On the execution of such agreement, the employer or the officer disbursing the salary or wages of the members shall, if so required by the co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within fourteen days from the date of the deduction.

(*3*) If after the receipt of a requisition made under sub-section (*2*), the employer or the officer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition or makes default in remitting the amount deducted to the society, the society shall be entitled to recover any such amount from such employer or

officer, as the case may be, as arrears of land revenue and the amount due from such employer or officer shall rank in priority in respect of the liability of such employer or officer equal to that of the salary or wages in arrears.

(4) The employer or the officer disbursing the salary or wages shall maintain such registers as may be prescribed by the Chief Commissioner or the Registrar from time to time.

(5) When a requisition in writing from any co-operative society registered or deemed to be registered in any State in respect of a member of that society who for the time being is employed in the Union territory, is received by his employer, the requisition shall be acted upon as if it had been made by a co-operative society in the Union territory.

Other forms of State aid to co-operative societies.

40. Notwithstanding anything contained in any law for the time being in force, the Government may—

(*a*) subscribe to the share capital of a co-operative society;

(*b*) give loans or make advances to a co-operative society;

(*c*) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(*d*) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the Government;

(*e*) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(*f*) give financial assistance in any other form, including grants and subsidies, to a co-operative society.

CHAPTER VI

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

Funds not to be divided by way of profit.

41. No part of the funds of a co-operative society shall be divided by way of bonus or dividend or otherwise among its members:

Provided that payment may be made to a member for the work done by him as secretary or as clerk on such scale as may be prescribed by the bye-laws:

Provided further that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made—

(*a*) as a bonus to a member for any specific service rendered by him to the co-operative society including work done as secretary or as clerk; and

(*b*) among the members to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws:

Provided also that no dividend shall be paid on the paid-up share capital of members at a rate exceeding twelve per cent. per annum.

Contribution to charitable purpose.

42. Any co-operative society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding five per cent. of the remaining net profits to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 20 of the Charitable Endowments Act, 1890. 6 of 1890.

Contribution to Co-operative Education Fund.

43. A co-operative society shall out of its net profits in any year credit such portion of the profits not exceeding five per cent. as may be prescribed to the Co-operative Education Fund constituted under the rules.

Investment of funds.

44. (*1*) A co-operative society may invest or deposit its funds—

(*a*) in the post office savings bank; or

(*b*) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or 2 of 1882.

(*c*) in the shares or securities of any other co-operative society, or

(*d*) in any banking company as defined in section 5 of the Banking Regulation Act, 1949 approved in this behalf by the Registrar; or 10 of 1949.

(*e*) in any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; or 5 of 1970.

(*f*) in the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 or in any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959. 23 of 1955. 38 of 1959.

(*2*) Every investment or deposit made by a co-operative society of its funds before the commencement of this Regulation which would have been valid if this Regulation had been in force at the time or times such investment or deposit was made, shall be deemed to have been made under this Regulation.

Restrictions on loans.

45. (*1*) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(*2*) Notwithstanding anything contained in sub-section (*1*), a co-operative society may make a loan to a depositor on the security of his deposit.

Restrictions on borrowing.

46. A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

Restrictions on other transactions with non-members.

47. Save as otherwise provided in sections 45 and 46, every transaction of a co-operative society with any person, other than a member, shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

CHAPTER VII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Audit.

48. (*1*) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the co-operative society.

(*3*) The person auditing the accounts of a co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of the society and shall be allowed to verify its cash balance and securities.

(*4*) The directors, members of the staff, administrators and other officers of every co-operative society shall furnish to the person auditing its accounts all such information as to its transactions and working as such person may require.

(*5*) The Registrar or the person authorised by him under sub-section (*1*) to audit the accounts of a co-operative society shall have power, where necessary,—

(*a*) to summon at the time of his audit any officer, agent, servant or member of the society, past or present, who, he has reason to believe, can give valuable information in regard to transactions of the society or the management of its affairs; and

(*b*) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by any officer, agent, servant or member of the society in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(*6*) If at the time of audit the accounts of a society are not complete, the Registrar or the person authorised by him under sub-section (*1*) to audit, may cause the accounts to be written up at the expense of the society.

(*7*) Audit fee, if any, due from any co-operative society shall be recoverable in the same manner as is provided in section 67.

Inspection of co-operative societies.

49. (*1*) The Registrar, or any person authorised by the Registrar by general or special order in this behalf, may inspect a co-operative society.

(*2*) For the purpose of inspection, the Registrar or the person authorised to make the inspection shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of the co-operative society and may in the event of serious irregularities discovered during the inspection take them into custody and shall have power to verify the cash balance of the society and subject to the general or special order of the Registrar to call a meeting of the committee and a general meeting.

(3) Every officer or member of a co-operative society shall furnish such information with regard to the working of the society as the Registrar or the person authorised to make the inspection may require.

Inquiry by Registrar.

50. (1) The Registrar may, of his own motion or on the application of a majority of the members of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:—

(a) he shall at all reasonable times have free access to the books, documents, securities, accounts, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at the headquarters of the society or any branch thereof;

(b) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society to consider such matters, as may be directed by him; and where the officers of the society refuse or fail to call such a meeting he shall have power to call it himself;

(c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) The Registrar shall communicate a brief summary of the report of the inquiry to the society, the credit agency, if any, to which the society is affiliated, and to the persons or authority, if any, at whose instance the inquiry is made.

Inspection of books of indebted societies.

51. (1) The Registrar shall, on the application of a creditor of a co-operative society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made unless the applicant—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry and inspection.

52. Where an inquiry is held under section 50, or an inspection is made under section 51, the Registrar may apportion the costs, or such part of the costs, as he may think fit between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers and the members or past members of the society:

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(*b*) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

53. Any sum awarded by way of costs under section 52 may be recovered, on application to a Magistrate having jurisdiction in the place where the person, from whom the money is claimable, actually and voluntarily resides or carries on business, and such Magistrate shall recover the same as if it were a fine imposed by himself.

Surcharge.

54. (*1*) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Regulation, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person:

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section.

(*2*) Where an inquiry is made under sub-section (*1*), the Registrar may, after giving the person concerned an opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER VIII

SETTLEMENT OF DISPUTES

Disputes which may be referred to arbitration.

55. (*1*) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society arises—

(*a*) among members, past members and persons claiming through members, past members and deceased members, or

(*b*) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society or liquidator, past or present, or

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co-operative society, between a society and liquidator of another society or between the liquidator of one society and the liquidator of another society,

such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to include disputes touching the constitution, management or the business of a co-operative society, namely:—

(a) a claim by the society for any debt or demand due to it from a member, past member, or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of any officer of the society.

(3) If any question arises whether a dispute referred to the Registrar under this section is or is not a dispute touching the constitution, management or business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

Reference of disputes to arbitration.

56. (1) The Registrar may, on receipt of the reference of dispute under section 55,—

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the Chief Commissioner with powers in that behalf, or

(c) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators appointed by the Registrar.

(2) Subject to such rules as may be prescribed, the Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the person to whom such reference was transferred or by the arbitrator or arbitrators to whom it was referred:

Provided that no order prejudicial to any person shall be made under this sub-section unless that person has been given a reasonable opportunity of being heard.

(4) (a) Any decision of the Registrar under clause (a) of sub-section (1) or under sub-section (3) shall be final and shall not be called in question in any court.

(b) Any decision that may be made by the person to whom a reference is transferred or by the arbitrator or arbitrators to whom it is referred, shall, save as otherwise provided in sub-section (3), be final and shall not be called in question in any court.

CHAPTER IX

WINDING UP OF CO-OPERATIVE SOCIETIES

Winding up of co-operative societies.

57. (1) If the Registrar, after an inquiry held under section 50, or an inspection made under section 51, or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may after giving the society an opportunity of making its representation, by order, direct it to be wound up.

(2) The Registrar may of his own motion make an order directing the winding up of a co-operative society—

(a) where it is a condition of the registration of a society that the society shall consist of at least ten members and the number of members has been reduced to less than ten; or

(b) where the society has not commenced working or has ceased to function in accordance with co-operative principles.

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

(4) A copy of such order shall be communicated by registered post to the society and to the credit agency, if any, of which the society is a member.

(5) Where an appeal against an order for the winding up of a co-operative society is not presented within the period specified under sub-section (2) of section 68, the order shall take effect on the expiry of that period.

(6) Where an appeal against an order for the winding up of a co-operative society is presented within the period specified under sub-section (2) of section 68, the order shall not take effect until it is confirmed by the Chief Commissioner and such confirmation is communicated to the society.

Liquidator.

58. (1) Where the Registrar has made an order under section 57 for the winding up of a co-operative society, he may appoint a liquidator for the purpose and fix his remuneration.

(2) Notwithstanding anything contained in sub-section (5) or sub-section (6) of section 57 a liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the co-operative society is or appears to be entitled and shall take all such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to, such property, effects and

claims and he may carry on the business of the society so far as may be necessary with the previous approval of the Registrar.

(3) Where an appeal is preferred under section 68 against an order for the winding up of a co-operative society made under section 57 the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section until the disposal of the appeal.

(4) Where an order for the winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

(5) The Registrar may, for reasons to be recorded in writing, remove a liquidator appointed under this section and appoint another liquidator in his place.

Powers of liquidator.

59. (1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society, in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 58 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Registrar,—

(a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(b) to determine, from time to time, the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the co-operative society;

(c) to investigate all claims against the co-operative society and subject to the provisions of this Regulation to decide questions of priority arising between claimants;

(d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateable, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the co-operative society as may appear to him to be necessary for the winding up of its affairs;

(h) to carry on the business of the co-operative society so far as may be necessary for its beneficial winding up;

(*i*) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the co-operative society may be rendered liable;

(*j*) to make any compromise or arrangement with any person between whom and the co-operative society there exists any dispute and to refer any such dispute to arbitration;

(*k*) after consulting the members of the co-operative society, to dispose of the surplus, if any, remaining after paying the claims against the society, in such manner as may be prescribed; and

(*l*) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or alleged to subsist between the co-operative society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of a co-operative society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a completed discharge in respect thereof.

(*3*) When the affairs of a co-operative society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

Priority of contributions assessed by liquidator.

60. Notwithstanding anything contained in any law relating to insolvency, the contribution assessed by a liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceedings.

Power of Registrar to cancel registration of a co-operative society.

61. (*1*) The Registrar may after considering the report of the liquidator made to him under sub-section (*3*) of section 59 order the registration of the co-operative society to be cancelled.

(*2*) An order passed under sub-section (*1*) shall be communicated by registered post to the president of the society and to the credit agency, if any, of which the society was a member.

CHAPTER X

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

Enforcement of charge.

62. Notwithstanding anything contained in Chapter VIII or any other law for the time being in force but without prejudice to any other mode of recovery provided in this Regulation, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under section 31:

Provided that no order shall be made under this section unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice in the prescribed

manner and has failed to pay the debt or outstanding demand within seven days from the date of such notice.

Execution of orders, etc.

63. Every decision, award or order made under section 54, section 56, section 62 or section 68 shall, if not carried out,—

(*a*) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(*b*) be executed, by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by attachment and sale or by sale without attachment of any property of the person or co-operative society against whom the decision, award or order has been made.

Execution of orders of liquidator.

64. Every order made by the liquidator under section 59 shall be executed according to the law for the time being in force for the recovery of arrears of land revenue.

Attachment of property before award or order.

65. If the Registrar is satisfied on an application, report or enquiry that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Regulation—

(*a*) is about to dispose of the whole or any part of the property; or

(*b*) is about to remove the whole or any part of the property from the jurisdiction of the Registrar, the arbitrator or the liquidator, as the case may be,

he may, unless adequate security is furnished, by order, direct attachment of the said property; and such attachment shall have the same effect as if made by a competent civil court.

Registrar or person empowered by him to be civil court for certain purposes.

66. The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Regulation for the recovery of any amount by attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of article 136 of the First Schedule to the Limitation Act, 1963.

36 of 1963.

Recovery of sums due to Government.

67. (*1*) All sums due from a co-operative society, or from an officer or member or past member of a co-operative society as such, to the Government, including any costs awarded to the Government under any provision of this Regulation, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(*2*) Sums due from a co-operative society to the Government and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability;

and, thirdly in the case of other societies, from the members, past members or the estates of the deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 22.

CHAPTER XI

APPEALS AND REVISION

Appeals.

68. (*1*) An appeal shall lie under this section against—

(*a*) an order of the Registrar made under sub-section (*2*) of section 8 refusing to register a co-operative society;

(*b*) an order of the Registrar made under sub-section (*4*) of section 10 refusing to register an amendment of the bye-laws of a co-operative society or under sub-section (*6*) (*ii*) of that section compulsorily registering an amendment to such bye-laws;

(*c*) a decision of a co-operative society, other than a producers' society, refusing to admit any person as a member of the society, who is otherwise duly qualified for membership under the bye-laws of the society;

(*d*) a decision of a co-operative society expelling any of its members;

(*e*) an order made by the Registrar under section 27 removing the committee of a co-operative society;

(*f*) an order made by the Registrar under section 52 apportioning the costs of an inquiry held under section 50 or an inspection made under section 51;

(*g*) an order of surcharge made by the Registrar under section 54;

(*h*) a decision or award made under section 56;

(*i*) an order made by the Registrar under section 57 directing the winding up of a co-operative society;

(*j*) an order made by a liquidator of a co-operative society in exercise of the powers conferred on him by section 59;

(*k*) an order made under section 65.

(*2*) An appeal against any decision, award or order under sub-section (*1*) shall be made within sixty days from the date of the decision, award or order,—

(*a*) if the decision, award or order was made by the Registrar, to the Chief Commissioner; or

(*b*) if the decision, award or order was made by any other person, to the Registrar:

Provided that where the Registrar is deemed to have refused registration of a society under sub-section (*4*) of section 8 and an appeal is intended to be filed against such refusal, such appeal may be filed within

sixty days from the expiry of the period of three months referred to in sub-section (3) of that section:

Provided further that the appellate authority may admit an appeal after the said period of sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(3) No appeal shall lie under this section from any decision or order made by the Registrar in appeal.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties an opportunity of making their representation, pass such order thereon as that authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final.

Revision.

69. The Chief Commissioner may, either *suo motu* or on an application, call for and examine the records of any proceedings in which no appeal lies to the Chief Commissioner under section 68 for the purpose of satisfying himself as to the legality or propriety of any decision, award or order made and if in any case it shall appear to the Chief Commissioner that any such decision, award or order should be modified, annulled or revised, the Chief Commissioner may, after giving the party to be affected thereby an opportunity of being heard, pass such order thereon as he may deem fit.

Interlocutory orders.

70. Where an appeal is made under section 68 or where the Chief Commissioner calls for the records of a case under section 69, the appellate authority or the Chief Commissioner, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders, including an order of stay, pending the decision of the appeal or revision as such authority or the Chief Commissioner may deem fit.

CHAPTER XII

OFFENCES AND PENALTIES

Punishment for certain offences.

71. (1) It shall be an offence under this Regulation if—

(a) the committee, an officer, employee or any member of a co-operative society wilfully makes a false return or furnishes false information or disobeys a lawful order or direction issued under the provisions of this Regulation;

(b) any person wilfully or without any reasonable cause disobeys any summons, requisition or other lawful order or direction issued under this Regulation;

(c) any person wilfully withholds or fails to furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Regulation;

(d) any person acts in contravention of section 31 or section 32;

(e) the committee or a member thereof wilfully fails to produce books, accounts, documents, records, securities, cash and other properties belonging to or in the custody of a co-operative society.

(2) An offence under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Prohibition of use of the word "co-operative" or its equivalent.

72. (1) No person, other than a co-operative society, shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part without the sanction of the Government:

Provided that nothing in this sub-section shall apply to the use by any person or his successor-in-interest of any name or title under which he traded or carried on business on the date on which the Co-operative Societies Act, 1912 came into operation. 2 of 1912.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of fifty rupees for each day on which the offence is continued after conviction thereof.

Punishment for offences not otherwise provided for.

73. Any co-operative society or any officer or member thereof or any other person contravening the provisions of this Regulation for which no punishment is expressly provided herein shall be punishable with fine which may extend to fifty rupees.

Cognisance of offences.

74. (1) No court inferior to that of a Magistrate of the first class shall try any offence under this Regulation.

(2) No prosecution shall be instituted under this Regulation without the previous sanction of the Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

CHAPTER XIII

MISCELLANEOUS

Address of co-operative societies.

75. Every co-operative society shall have an address registered in the manner prescribed to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof within thirty days of such change.

Copy of Regulation, rules, bye-laws, etc., to be open to inspection.

76. Every co-operative society shall keep a copy of this Regulation, the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times at the registered address of the society.

Power to exempt co-operative societies from conditions as to registration.

77. Notwithstanding anything contained in this Regulation, the Chief Commissioner may, by special order in each case and subject to such conditions, if any, as he may impose, exempt any co-operative society from any of the requirements of this Regulation as to registration, if he is satisfied that such exemption is necessary having regard to the nature of the activities of the society or that such exemption is necessary in the public interest or in the interest of the co-operative movement.

Power to exempt co-operative societies from provisions of the Regulation.

78. The Chief Commissioner may, by general or special order, exempt any co-operative society or any class of co-operative societies from any of the provisions of this Regulation or may direct that such provisions shall apply to such societies or class of societies with such modifications as may be specified in the order if he is satisfied that such exemption or direction is necessary having regard to the nature of the activities of the society or class of societies or that such exemption or direction is necessary in the public interest or in the interest of the co-operative movement.

Registrar and other officers to be public servants.

79. The Registrar, a person appointed to assist the Registrar under section 3, a person authorised to audit the accounts of a co-operative society under section 48 or to make an inspection under section 49 or to hold an inquiry under section 50 and a person appointed as an arbitrator under section 56 or a liquidator appointed under section 58 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Notice necessary in suits.

80. No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or business of the society until the expiration of three months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

Companies Act not to apply.

81. The provisions of the Companies Act, 1956 shall not apply to co-operative societies. 1 of 1956.

Saving of existing societies.

82. (*1*) Every society now existing, which has been registered under the Co-operative Societies Act, 1912, as it applies to the Union territory of the Andaman and Nicobar Islands, shall be deemed to be registered under the corresponding provisions of this Regulation, and its bye-laws shall, so far as they are not inconsistent with the provisions of this Regulation or the rules, continue to be in force until altered or rescinded. 2 of 1912.

(*2*) All appointments, rules and orders made, all notifications and notices issued and all suits and other proceedings instituted under the said Act shall, so far as they are not inconsistent with the provisions of this Regulation, be deemed to have been respectively made, issued and instituted under this Regulation save that an order cancelling the registration of a co-operative society made under the said Act shall be deemed, unless the society has already been finally liquidated, as an order made under section 57 for its being wound up.

Bar of jurisdiction of courts.

83. (*1*) Save as otherwise provided in this Regulation, no court shall have any jurisdiction in respect of—

(*a*) the registration of a co-operative society or its bye-laws or of an amendment of the bye-laws;

(*b*) the removal of a committee;

(*c*) any dispute required under section 55 to be referred to the Registrar; and

(*d*) any matter concerning the winding up and the dissolution of a co-operative society.

(*2*) While a co-operative society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(*3*) Save as otherwise provided in this Regulation, no order, decision or award made under this Regulation shall be questioned in any court on any ground whatsoever.

Registrar, etc., to have powers of a civil court.

84. (*1*) In exercising the functions conferred on him by or under this Regulation, the Registrar, the arbitrator or any other person deciding a dispute under section 56 and the liquidator of a co-operative society and a person entitled to audit, inspect or hold an inquiry under this Regulation shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) proof of facts by affidavits; and

(*d*) issuing commissions for examination of witnesses.

(*2*) In the case of an affidavit, any officer appointed by the Registrar, the arbitrator or any other person deciding a dispute or the liquidator, as the case may be, may administer the oath to the deponent.

Indemnity.

85. No suit, prosecution or other legal proceeding shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Regulation.

Power to make rules.

86. (*1*) The Chief Commissioner may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out all or any of the purposes of this Regulation.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*i*) the maximum number of shares or portion of the capital of a co-operative society which may, subject to the provisions of section 6, be held by a member;

(*ii*) the form to be used and the conditions to be complied with in the making of applications for the registration of a co-operative society and the procedure in the matter of such applications;

(*iii*) the procedure and conditions for change in the form and extent of the liability of co-operative society;

(*iv*) the matters in respect of which a co-operative society may or shall make bye-laws and the procedure to be followed in making,

altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(*v*) the conditions to be complied with by persons applying for admission or admitted as members, for the election and admission of members, and the payment to be made and the interest to be acquired before the exercise of the right of membership;

(*vi*) the manner in which funds may be raised by means of shares or debentures or otherwise;

(*vii*) general meetings of the members and the procedure at such meetings and the powers to be exercised by such meetings;

(*viii*) the prohibitions and restrictions subject to which co-operative societies may transact business with persons who are not members;

(*ix*) the proportion of individuals and co-operative societies in the constitution of the committee of management and the general body of a co-operative society of which another co-operative society is a member;

(*x*) subject to the provisions of section 26, the election and nomination of members of committees, the appointment or election of officers and the suspension and removal of the members and other officers, and the powers to be exercised and the duties to be performed by the committees and other officers;

(*xi*) the appointment and regulation of work entrusted to the person or persons replacing the committee in pursuance of section 27;

(*xii*) prohibiting a co-operative society from electing a defaulting member on its committee or to be its representative;

(*xiii*) the accounts and books to be kept by a co-operative society, the audit of such accounts and the charges, if any, to be made for such audit, and the periodical publication of a balance sheet showing the assets and liabilities of a co-operative society;

(*xiv*) the returns to be submitted by a co-operative society to the Registrar, the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return, the levy of expenses of preparing it;

(*xv*) the persons by whom and the form in which copies of entries in books of co-operative societies may be certified and the charges to be levied for the supply of such copies;

(*xvi*) the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;

(*xvii*) the appointment of an arbitrator to decide disputes;

(*xviii*) the procedure to be followed in proceedings before the Registrar, arbitrator or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a

minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests, and the levy of expenses relating to such proceedings;

(*xix*) the withdrawal and expulsion of members and the payments, if any, to be made to members who withdraw or are expelled and the liability of past members or the estates of deceased members;

(*xx*) the mode in which the value of deceased member's share or interest shall be ascertained and the nomination of a person to whom such share or interest may be paid or transferred;

(*xxi*) the payments to be made and the conditions to be complied with by members applying for loans, the period for which any loans may be made and the maximum amount which may be lent, to any member;

(*xxii*) the formation and maintenance of reserve funds and other funds and the objects to which such funds may be applied, and the investment of any funds under the control of a co-operative society;

(*xxiii*) the extent to which a co-operative society may limit the number of its members;

(*xxiv*) the conditions under which profits may be distributed to the members of a co-operative society with unlimited liability, and the maximum rate of dividend which may be paid by co-operative societies;

(*xxv*) the calculation and writing off of bad debts by co-operative societies;

(*xxvi*) the procedure to be followed by a liquidator appointed under section 58 in respect of the provisions of section 59;

(*xxvii*) the procedure to be followed in presenting and disposing of appeals under this Regulation;

(*xxviii*) the issue and service of processes and for proof of service thereof;

(*xxix*) the manner of effecting attachment;

(*xxx*) the custody, preservation and sale of property under attachment;

(*xxxi*) the investigation of claims by persons other than the defaulter to any right or interest in the attached property, and the postponement of sale pending such investigation;

(*xxxii*) the immediate sale of perishable articles;

(*xxxiii*) the inspection of documents in the office of the Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;

(*xxxiv*) the terms and conditions on which Government may make share capital contribution or give financial or other assistance to co-operative societies and the terms and conditions on which the Government may guarantee the payment of the principal or interest on debentures issued by co-operative societies or loans or deposits raised by them;

(*xxxv*) the manner in which funds may be raised by a co-operative society or a class of co-operative societies by means of shares or debentures or otherwise and the quantum of funds so raised;

(*xxxvi*) the qualifications for members of the committee and employees of a co-operative society or class of co-operative societies and the conditions of service subject to which persons may be employed by co-operative societies;

(*xxxvii*) the method of communicating or publishing any order, decision or award required to be communicated or published under this Regulation or the rules; and

(*xxxviii*) all other matters expressly required or allowed by this Regulation to be prescribed by rules.

2 of 1912.

87. The Co-operative Societies Act, 1912, in its application to the Union territory of the Andaman and Nicobar Islands, is hereby repealed: Repeal and Savings.

Provided that such repeal shall not affect—

(*a*) the previous operation of the said Act or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

(*c*) any penalty, forfeiture, or punishment incurred in respect of any offence committed against the said Act; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Regulation had not been passed.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1973